

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Shirley McDonald,

Complainant,

**ORDER OF DISMISSAL**

v.

Jeanne Newstrom,

Respondent.

On March 17, 2010, Shirley McDonald filed a Campaign Complaint with the Office of Administrative Hearings alleging that Jeanne Newstrom violated Minnesota Statutes § 211B.09. The Complaint alleges that Ms. Newstrom violated the statute by posting information about the Newstrom election campaign for Town Clerk on the Trout Lake Township website.

After reviewing the Complaint and attachments, the Administrative Law Judge concludes that the Complaint does not state a *prima facie* violations of Minn. Stat. § 211B.09.

Based upon the Complaint and the supporting filings and for the reasons set out in the attached Memorandum,

**IT IS ORDERED:** The Complaint of Shirley McDonald is DISMISSED.

Dated: March 22, 2010

/s/ Eric L. Lipman  
ERIC L. LIPMAN  
Administrative Law Judge

## **MEMORANDUM**

### **I. Factual Background**

Respondent Jeanne Newstrom is the Town Clerk for Trout Lake Township in Itasca County, Minnesota.

Going into the March 2010 township elections, Ms. Newstrom was the incumbent office-holder.

On January 12, 2010, a majority of the Township Supervisors voted to bar the inclusion of profiles of the candidates for township office in either the township newsletter or as a posting on the township website.

Ms. Newstrom has established a separate website on which she writes about her duties and activities as the Town Clerk. In a posting to her website dated February 23, 2010, Ms. Newstrom noted that she was a candidate for re-election and described her qualifications for election.

Complainant McDonald alleges that Newstrom violated Minn. Stat. § 211B.09. The Complaint states:

The Respondent Newstrom campaigned for the elected position of Town Clerk by listing her information with the website for Trout Lake Township on February 23, 2010[,] including her picture, and [kept] it on the link until March 1, 2010, in violation of the [the] above statute.

Minn. Stat. § 211B.09 provides:

An employee or official of the state or of a political subdivision may not use official authority or influence to compel a person to apply for membership in or become a member of a political organization, to pay or promise to pay a political contribution, or to take part in political activity. A political subdivision may not impose or enforce additional limitations on the political activities of its employees.

### **II. Analysis**

The Complaint fails to state violation of Minn. Stat. § 211B.09 because it does not allege any facts which suggest that Ms. Newstrom compelled any person to undertake any action – least of all of actions relating to the campaign for election to the post of Town Clerk.<sup>1</sup> Without this element alleged, the Complaint fails to state a violation the Fair Campaign Practices Act and must be dismissed.

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<sup>1</sup> *Compare, Burns v. Valen*, 400 N.W. 2d 123, 127 (Minn. Ct. App. 1987) (the display of campaign literature by government employees at the county courthouse did not "compel" fellow employees to participate in campaign activities); *Wigley v. Orono Public Schools*, OAH Docket No. 3-6326-19653-CV

Additionally, it bears mentioning that Ms. McDonald appears to confuse the website that is referenced in the January 12, 2010 resolution of the Township Supervisors with the website established and operated by Ms. Newstrom. A review of the materials submitted with the Complaint suggests that these are different websites with different purposes.

**E. L. L.**

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(2008) (Complainants failed to allege sufficient facts that would support finding a prima facie violation of Minn. Stat. § 211B.09 where they "alleged no facts to support finding that the Respondents used forceful or overwhelming pressure to compel anyone to create and disseminate campaign material or to take part in some other political activity") (<http://www.oah.state.mn.us/aljBase/632619653.primafacie.htm>); *Lillyquist v. Bernhjelm*, OAH Docket No. 7-6310-16288-CV (2004) (public school Superintendent's handing campaign material to a teacher, during a cordial conversation, did not violate the restrictions in Minn. Stat. § 211B.09) (<http://www.oah.state.mn.us/aljBase/631016288.fdg.htm>); *Tast v. Phillips*, OAH Docket No. 21-6379-16251-CV (2004) (a teacher's refusal to remove a campaign button did not compel students to participate in political activity) (<http://www.oah.state.mn.us/aljBase/637916251.pf.dismissal.htm>) with *Halvorson v. Nelson*, OAH Docket No. 4-6301-16282-CV (2004) (a complaint that alleged that the Mayor threatened reprisals against a city employee who hosted the lawn sign of a competing candidate did state a violation of Minn. Stat. § 211B.09) (<http://www.oah.state.mn.us/aljBase/630116282.primafacie.htm>).